IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

MONDAY, THE 15TH OCTOBER 2007 / 23RD ASWINA 1929

WP(C).No. 25628 of 2007(A)

PETITIONER:

JOSHY P.K., D/O.P.C.KUNJUVAREED,
AGED 30 YEARS, HIGH SCHOOL ASSISTANT (MATHS),
UNION HIGHER SECONDARY SCHOOL, MAMBRA,
THRISSUR DISTRICT.

BY ADV. SRI.V.A.MUHAMMED
SRI.K.E.HAMZA

RESPONDENTS:

1. THE STATE OF KERALA REPRESENTED BY
THE SECRETARY TO GOVERNMENT, GENERAL EDUCATION
DEPARTMENT, SECRETARIAT, TRIVANDRUM.

2. THE DIRECTOR OF PUBLIC INSTRUCTION,
JAGATHY, TRIVANDRUM-14.

3. THE DISTRICT EDUCATIONAL OFFICER,
IRINJALAKUDA, THRISSUR DISTRICT.

4. THE HEADMASTER, UNION HIGHER
SECONDARY SCHOOL, MAMBRA, THRISSUR DISTRICT.

5. SMT.P.A.SABITHA, UPPER PRIMARY SCHOOL
ASSISTANT, UNION HIGHER SECONDARY SCHOOL,
MAMBRA, THRISSUR DISTRICT.

ADDITIONAL RESPONDENT:

6. THE MANAGER OF UNION HIGHER SECONDARY SCHOOL,
MAMBRA POST, ERAYAMKUDY - 680 308,
THRISSUR DISTRICT.

(ADDL.R6 IMPLEADED AS PER ORDER ON I.A.NO.13549/07
ON 15.10.07.)

BY GOVERNMENT PLEADER SHRI.A.J.VARGHESE

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 15/10/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

S.SIRI JAGAN, J.

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W.P.(C).No.25628 of 2007

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Dated this the 15th day of October, 2007

J U D G M E N T

The petitioner was appointed as High School Assistant (Maths) from 5.9.2001 to 28.2.2002, which was approved by the educational authorities. The petitioner was again appointed from 5.6.2002 onwards. The same was not approved. In Ext.P1 judgment, this court held that the reappointment of the petitioner from 5.6.2002 is liable to be approved. Pursuant to the same, the 2nd respondent issued Ext.P2 order. In the meanwhile, apprehending that the petitioner would lose the benefits available as per Ext.P1 judgment, the petitioner moved a revision petition before the Government. By Ext.P4 order, the said revision petition was disposed of confirming that the petitioner's appointment from 5.6.2002 is liable to be approved. Although the petitioner has been working through out, the petitioner is not getting salary since 15.7.2006. The petitioner, therefore, seeks

the following reliefs:

> "(a) issue a writ of mandamus or other appropriate writ order or direction commanding the 3rd and 4th Respondents to disburse the salary due to the Petitioner since 15.7.2006.
>
> (b) issue a writ of mandamus or other appropriate writ order or direction commanding the 1st, 2nd, 3rd and 4th Respondents to allow the Petitioner to continue in service so long as her juniors are granted continuance in service."

2. In paragraph 10 of the counter affidavit filed by the third respondent it is stated thus:

> "10. It is submitted that after the filing of the writ petition, before the Hon'ble High Court, the Manager submitted the proposal for approval of appointment of the petitioner as UPSA on 25-8-07 from 15.7.06 onwards. Since the appointment proposal is a delayed one, the authority to condone the delay in submitting the approval of appointment order is the Director of Public Instruction, Thiruvananthapuram. Without condoning the delay, the District Educational Officer is not competent to approve the appointment order of the petitioner as UPSA."

3. In the above circumstances, the petitioner confines her prayer for a direction to the 2nd respondent to consider and pass orders on Ext.P5 petition filed by the additional 6th respondent in the matter.

4. I have heard the learned Government Pleader also.

5. In the facts and circumstances of the case, there would be a direction to the 2nd respondent to consider and pass appropriate orders on Ext.P5 filed by the manager of the school

as expeditiously as possible, at any rate, within one month from the date of receipt of a copy of this judgment, after affording an opportunity of being heard to the manager as well as the petitioner.

The writ petition is disposed of as above.

Sd/-

sdk+ S.SIRI JAGAN, JUDGE

///True copy///

P.A. to Judge.